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CONSULAR CONVENTION WITH THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA SIGNED AT BELGRADE JUNE 6, 1988

MARCH 15, 1989.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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U.S. GOVERNMENT PRINTING OFFICE

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *March 13, 1989.*

To the Senate of the United States:

I am transmitting, for the Senate's advice and consent to ratification, the Consular Convention between the United States of America and the Socialist Federal Republic of Yugoslavia signed at Belgrade June 6, 1988. I am also transmitting, for the information of the Senate, the report of the Department of State with respect to the Convention.

The signing of this Convention is a significant step in the process of improving and broadening the relationship between the United States and Yugoslavia. Consular relations between the two countries are not the subject of a modern bilateral agreement. This Convention will establish firm obligations on such matters as the notification of consular officers of the arrest and detention of their citizens and permission for consular officers to visit their citizens who are under detention and to protect the rights and interests of their nationals and juridical persons.

The people of the United States and Yugoslavia enjoy a long tradition of friendship. I welcome the opportunity through this Consular Convention to improve further relations between our two countries. I urge the Senate to give the Convention its prompt and favorable consideration.

GEORGE BUSH.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, February 22, 1989.

The PRESIDENT:

I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Consular Conventon between the United States of America and the Socialist Federal Republic of Yugoslavia signed at Belgrade June 6, 1988.

This Convention supplements the provision of the Convention between Serbia and the United States of America of 1981 and the provisions of the Vienna Convention on Consular Relations of 1963. This Convention will greatly facilitate the ability of American and Yugoslav consuls to extend assistance to their fellow citizens in numerous ways and should contribute to the growth of travel and commercial contacts between the two countries.

The specific consular functions and services which will be assured on a reciprocal basis include the issuance of passports and visas, performance of notarial services and the representation of the interests of nationals in estate matters. More significantly, the Convention assures that consuls whose nationals are arrested, detained or whose personal freedom is limited in any way will be immediately notified, in no event more than three calendar days after the date of detention, and will have the right to visit, communicate with, and provide necessary assistance to such nationals. The parties will permit visits as soon as possible, but not later than five days from the date on which the consular officer has submitted a request for a visit. The parties shall also permit consular officers to visit a national who, on the basis of a judicial decision, is in prison or is serving a sentence, at intervals not longer than one month.

The Convention's provisions follow the pattern of bilateral consular conventions in force with a number of countries. Articles 2–6 provide for establishment of consular posts, notifications regarding assignments of officers and employees for such posts, and procedures for terminating their activities. Article 10 provides for inviolability of premises, and Article 11 provides for inviolability of consular archives. Under Article 13, consular officers and consular employees are entitled to immunity, with certain enumerated exceptions, from the judicial and administrative jurisdiction of the receiving state with respect to actions taken in the performance of consular functions. Articles 14–22 provide for additional privileges and immunities of consulates and of members of a consulate and their families. These articles reflect prevailing international practice.

Articles 24–43 relate to consular functions which include, in addition to the functions referred to above, representing the interests of nationals with respect to vessels and aircraft.

On June 6, 1988, a Joint Statement on the subject of dual nationals was signed by representatives of the United States and Yugoslavia. This Joint Statement represents an understanding between the parties that, subject to certain conditions consular officers will be entitled to notification of and contact with arrested Yugoslav nationals who are also U.S. nationals permanently residing in the United States. While the Joint Statement relates to consular matters addressed in the Convention, neither the United States nor Yugoslavia regard it as part of the Convention.

This Consular Convention will facilitate our bilateral relations with the Socialist Federal Republic of Yugoslavia and advance the interests of nationals of both countries. I recommend that the Convention be transmitted to the Senate for its advice and consent to ratification.

Respectfully submitted,

MICHAEL H. ARMACOST.

Consular Convention Between the United States of America and the Socialist Federal Republic of Yugoslavia

The United States of America and the Socialist Federal Republic of Yugoslavia:

Desiring to develop and regulate consular relations, and thereby to contribute towards further developing the friendly relations between the two countries, and to facilitate the protection of their national interests and of the rights and interests of their nationals,

Desiring to supplement the provisions of the Vienna Convention on Consular Relations of 1963,

Have decided to conclude this Consular Convention and have appointed as their plenipotentiaries for this purpose:

For the United States of America:

John C. Whitehead,
Deputy Secretary of State.

For the Socialist Federal Republic of Yugoslavia:

Budimir Loncar,
Federal Secretary for Foreign Affairs.

Who, having communicated to each other their respective full powers, which were found in good and due form, have agreed as follows:

Part I.—Introduction

Article 1.—Definitions

For the purpose of the present Convention, the terms listed below shall have the following meanings:

(a) "Consulate" means a consulate-general, consulate, vice-consulate, or consular agency;

(b) "Consular district" means the area assigned to a consulate for the exercise of consular functions;

(c) "Head of a consulate" means the consul-general, consul, vice-consul or consular agent who is charged by the sending State to head a consulate;

(d) "Consular officer" means any person, including the head of a consulate, who is charged by the sending State with the performance of consular functions;

(e) "Consular employee" means any person who performs administrative, technical, or service duties at a consulate;

(f) "Member of a consulate" means a consular officer or consular employee;

(g) "Member of the family" means the spouse, minor child or other relative of a member of a consulate who is part of his household and who is dependent upon him;

(h) "Consular premises" means buildings or parts of buildings, as well as the grounds ancillary thereto, used exclusively for the purposes of a consulate, regardless of ownership;

(i) "Consular archives" means all official correspondence, codes and ciphers, documents, records, files, tapes and books, office equipment, as well as office furniture intended for their storage and safekeeping;

(j) "Vessel of the sending State" means any vessel sailing under the flag of the sending State, in accordance with the law of the sending State, excluding warships;

(k) "Aircraft of the sending State" means any aircraft flying under the nationality and registration marks of the sending State, in accordance with the law of the sending State, excluding military aircraft;

(l) "law" means

For the United States of America

—all federal, State and local laws, ordinances, regulations, resolutions and similar provisions having the force and effect of law, including determination of courts and other judicial agencies;

For the Socialist Federal Republic of Yugoslavia

—regulations and other normative acts in the Socialist Federal Republic of Yugoslavia, which were brought into effect by appropriate Federal, Republic or provincial organs or appropriate other socio-political organs.

PART II.—ESTABLISHMENT OF CONSULATES, APPOINTMENT OF MEMBERS OF A CONSULATE AND TERMINATION OF THEIR FUNCTIONS

ARTICLE 2.—ESTABLISHMENT OF CONSULATES

1. The sending State may establish a consulate in the receiving State only with the consent of the receiving State.

2. The seat of the consulate, its classification, and its consular district, as well as any changes pertaining thereto, shall be determined by agreement between the sending and receiving States.

ARTICLE 3.—APPOINTMENT OF THE HEAD OF A CONSULATE

1. Prior to the appointment of the head of a consulate by the sending State, the consent of the receiving State concerning the proposed person shall be obtained through diplomatic channels.

2. After the consent of the receiving State has been obtained, the sending State shall forward to the receiving State through diplomatic channels the consular commission or other similar document for the appointment of the head of the consulate. This document shall contain the full name of the head of the consulate, his rank, the seat of the consulate and the consular district in which he will exercise his functions.

3. The head of the consulate may enter upon the performance of his functions only after the receiving State has issued to him an exequatur or other authorization. Upon the presentation of the consular commission or other similar document for the appoint-

ment of the head of the consulate, the receiving State shall without delay issue to him an exequatur or other authorization.

4. The receiving State may permit the head of a consulate to exercise his functions on a provisional basis until such time as an exequatur or other authorization has been issued.

5. The competent authorities of the receiving State shall, immediately after issuing the exequatur or other authorization or provisional recognition, take all measures necessary to enable the head of the consulate to exercise his functions and to enjoy the rights, facilities, privileges and immunities granted him under this Convention and under the law of the receiving State.

ARTICLE 4.—TEMPORARY EXERCISE OF THE FUNCTIONS OF HEAD OF CONSULATE

1. If for any reason the head of a consulate is unable to exercise his functions, or if the position of the head of consulate is vacant, the sending State may place its consulate under the temporary charge of a consular officer of the same or of another consulate of the sending State in the receiving State or a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State. The sending State shall notify the receiving State in advance of the full name of the person appointed as acting head of a consulate.

2. A person appointed as acting head of a consulate shall enjoy the same rights, facilities, privileges and immunities enjoyed by a head of a consulate under this Convention.

3. Entrusting a member of a diplomatic staff of the diplomatic mission of the sending State with the functions of acting head of a consulate does not limit the privileges and immunities to which he is entitled by virtue of his diplomatic status.

ARTICLE 5.—APPOINTMENT OF CONSULAR OFFICERS AND CONSULAR EMPLOYEES

1. The sending State may staff its consulate with the number of consular officers and consular employees it considers necessary. The receiving State may, however, require that the number of such consular officers and consular employees be kept within the limits which it considers to be reasonable, having regard to existing circumstances and conditions in the consular district and the needs of the particular consulate.

2. Consular officers shall be nationals of the sending State and shall be neither nationals nor permanent residents of the receiving State.

3. The sending State shall communicate in advance, in writing, to the receiving State the appointment of each consular officer, his full name, functions and class.

4. The sending State shall also notify the receiving State in writing of:

(a) the arrival and entrance upon duty of persons appointed as members of a consulate, their full name, nationality, and functions, their final departure or termination of their functions, as well as other factors affecting their status which may arise while they are working in the consulate;

(b) the arrival and final departure of members of the family of a member of the consulate and when such an individual becomes or ceases to be a member of the family;

(c) the employment or termination of employment of the member of consulate who is a national or permanent resident of the receiving State.

ARTICLE 6.—DECLARING *PRESONA NON GRATA* AND TERMINATING FUNCTIONS OF MEMBERS OF A CONSULATE

1. The receiving State may at any time, without explanation, notify the sending State through diplomatic channels that a consular officer has become *persona non grata* or that a consular employee is unacceptable. In such case, the sending State shall recall such person or terminate his functions in the consulate.

2. If the sending State fails within a reasonable time to carry out the obligations under paragraph 1 of this Article, the receiving State may cease to consider the person concerned as a member of the consulate.

3. A person appointed as a member of the consular post may be declared unacceptable before arriving in the territory of the receiving State, or if already in the receiving State, before entering on his duties with the consular post. In such a case, the sending State shall withdraw his appointment. The receiving State shall not be obliged to give the sending State reasons for its decision.

4. The functions of a member of a consulate shall come to an end, *inter alia,* upon the:

(a) notification by the sending State to the receiving State that his functions have come to an end;

(b) withdrawal by the receiving State of the exequatur or other authorization; or

(c) notification by the receiving State to the sending State that the receiving State has ceased to consider the person as a member of the consulate.

PART III.—RIGHTS, FACILITIES, PRIVILEGES, AND IMMUNITIES

ARTICLE 7.—FACILITIES FOR THE PERFORMANCE OF CONSULAR FUNCTIONS AND PROTECTION OF MEMBERS OF A CONSULATE

1. The receiving State shall insure the proper conditions for the normal operation of a consulate and shall accord full facilities for the performance of the functions of the consulate.

2. The receiving State shall treat consular officers with due respect and afford appropriate protection to prevent any attack upon their person, freedom or dignity. It further shall take all measures necessary to insure that consular officers are able to perform their functions and enjoy the rights, facilities, privileges and immunities provided under this Convention.

3. The receiving State shall likewise afford all appropriate protection to other members of the consulate.

ARTICLE 8.—CONSULAR PREMISES AND RESIDENCES

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the send-

ing State of premises necessary for its consular post or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist the consular post in obtaining suitable accommodation for its members.

ARTICLE 9.—USE OF THE NATIONAL FLAG AND COAT OF ARMS

1. The sending State shall be entitled to display the national coat of arms and the designation of the consulate on the consular premises in the languages of the sending State and the languages of the consular district.

2. The sending State shall be entitled to fly the flag of the sending State on consular premises, the residence of the head of the consulate, as well as on the means of transport of the head of the consulate when used in the performance of his official duties.

3. In exercising the rights provided by this Article, the sending State shall observe the law and customs of the receiving State.

ARTICLE 10.—INVIOLABILITY OF CONSULAR PREMISES

1. The consular premises shall be inviolable. The authorities of the receiving State may not enter the consular premises without the consent of the head of the consulate, the chief of the diplomatic mission of the sending State, or a person designated by one of those persons. The consent of the head of the consulate may, however, be assumed in the case of fire or other disaster, potentially dangerous to person or property, and requiring prompt protective action.

2. Subject to the provisions of paragraph 1 of this Article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consulate or impairment of its dignity.

ARTICLE 11.—INVIOLABILITY OF CONSULAR ARCHIVES

The consular archives shall be inviolable at all times and wherever they may be. Documents and objects of an unofficial character shall not be stored in the consular archives.

ARTICLE 12.—FREEDOM OF COMMUNICATIONS

1. A consulate shall be entitled to exchange communications with its government and with diplomatic missions and consular posts of the sending State wherever they may be. For this purpose, the consulate may employ all ordinary means of communication, including diplomatic and consular couriers, diplomatic and consular bags and codes and ciphers. The consulate may install and use a wireless transmitter only with the prior consent of the receiving State.

2. With respect to public means of communication, the same conditions shall be applied in the case of a consulate of the sending State as are applied in the case of the diplomatic mission of the sending State.

3. The official correspondence of a consulate, regardless of the means of communications employed, as well as sealed consular bags and other containers, provided they bear visible external marks of their official character, shall be inviolable. They may con-

tain nothing other than official correspondence and articles intended exclusively for official use.

4. The official correspondence of a consulate, including consular bags and other containers, as described in paragraph 3 of this Article, shall neither be opened nor detained. However, if the competent authorities of the receiving State have serious reason to believe that a consular bag or other container also contains articles other than correspondence, documents and articles intended exclusively for official use, they may request that they be opened in their presence by an authorized representative of the sending State. If the authorities of the said State refuse the request, the bag or other container shall be returned to the place from which it was sent.

5. A consular courier must have an official document certifying his position and indicating the number of packages forming the consular bag. Unless the receiving State consents, he may not be a national of or have his permanent residence in the receiving State. The receiving State shall protect a consular courier in the performance of his functions. A consular courier of the sending State shall enjoy in the receiving State the same rights, privileges, benefits and immunity which are enjoyed by a diplomatic courier of the sending State. The provisions of this paragraph shall likewise apply to *ad hoc* couriers, except that their immunities shall cease when the consular bag has been handed over to the consignee.

6. If a master of a vessel or captain of a civil aircraft of the sending State is charged with an official consular bag, the master or captain shall be provided with an offical document showing the number of containers forming the consular bag entrusted to him; he shall not, however, be considered to be a consular courier. By agreement with the appropriate authorities of the receiving State, and in compliance with safety regulations of the receiving State, the sending State may send a member of the consulate to take possession of the consular bag directly and freely from the master of the vessel or captain of the aircraft or to deliver such a bag to him.

ARTICLE 13.—IMMUNITY OF MEMBERS OF A CONSULATE FROM THE JURISDICTION OF THE RECEIVING STATE

1. A member of a consulate shall enjoy immunity from the jurisdiction of the judicial and administrative authorities of the receiving State with respect to actions taken in the performance of consular functions.

2. The provisions of paragraph 1 of this Article shall not however, apply to civil proceedings:

(a) resulting from contracts that were not concluded by a member of a consulate in his official capacity on behalf of the sending State;

(b) relating to succession in which a member of a consulate was involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) concerning a claim by a third party for damage caused by a vessel, vehicle, or aircraft;

(d) concerning private immovable property in the receiving State, unless the member of the consulate is holding it on behalf of the sending State for the purpose of the consulate;

(e) relating to any private commercial activities engaged in by a member of a consulate in the receiving State outside of his official functions.

3. Measures of execution may be taken against a member of a consulate in civil proceedings, including cases specified in paragraphs 2(a), (b), (c), (d) and (e) of this Article, provided that these measures do not interfere with the performance of consular functions.

4. Consular officers may be arrested or detained pending trial only in case of grave criminal acts and only on the basis of a decision of the competent judicial authority.

5. Except in the case specified in paragraph 4 of this Article, a consular officer may not be imprisoned or subjected to any other form of restriction of personal freedom, except when carrying out a judicial decision of final effect.

6. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless, the proceedings must be conducted with the respect due him by virtue of his official position and, except in the case specified in paragraph 4 of this Article, in such a manner as to cause the least possible disruption of consular functions. If, under the circumstances referred to in paragraph 4 of this Article, it becomes necessary to arrest or detail a consular officer, proceedings against him must be instituted as soon as possible.

7. In case of the arrest or detention of a member of a consulate or the initiation of criminal proceedings against him, the receiving State is obliged to notify the head of the consulate about it as soon as possible. If these measures relate to the head of the consulate, the sending State shall be notified thereof through diplomatic channels by the receiving State.

ARTICLE 14.—EXEMPTION FROM OBLIGATION TO GIVE EVIDENCE

1. A member of the consulate may be called upon to attend as a witness in the course of judicial or administrative proceedings. In the event of the refusal of a consular officer to give evidence at such proceedings, no coercive measures or penalty may be applied to him. A consular employee may not decline to give evidence except in cases mentioned in paragraph 2 of this Article.

2. Members of a consulate are under no obligation to give evidence concerning matters relating to the exercise of their official functions or to produce official correspondence or documents. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

3. In taking testimony of a member of a consulate, the competent authorities of the receiving State shall take all appropriate measures to avoid hindering the performance of his official consular functions. Upon the request of the head of a consulate, such testimony may, when possible, be given orally or in writing at the consulate or at the residence of the person concerned.

ARTICLE 15.—WAIVER OF IMMUNITY

1. The sending State may waive the immunities and exemptions of members of a consulate as provided in Articles 13 and 14 of this Convention. Except as provided in paragraph 2 of this Article, such waiver shall always be express and in writing.

2. In the event a member of a consulate initiates legal proceedings, with respect to which he would enjoy immunity from jurisdiction under Article 13 of this Convention, he may not invoke immunity with regard to any counter-claim directly related to the principal claim.

3. Waiver of immunity from jurisdiction with respect to civil proceedings shall not be held to imply waiver of immunity with respect to the execution of judgment, for which a separate waiver shall be necessary.

ARTICLE 16.—EXEMPTION FROM SERVICES AND DUTIES

Members of a consulate and members of their families shall be exempt from all public or personal contributions and services of any kind, including military service, and other military obligations such as requisitioning, contributions and billeting, in the receiving State.

ARTICLE 17.—EXEMPTION FROM ALIEN REGISTRATION OBLIGATIONS

Members of a consulate and members of their families shall be exempt from all obligations under the law of the receiving State regarding alien registration and residence permits and related regulations normally applicable to aliens.

ARTICLE 18.—EXEMPTION FROM TAXATION OF CONSULAR PREMISES

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

ARTICLE 19.—EXEMPTION OF MEMBERS OF A CONSULATE FROM TAXATION

1. A member of a consulate and members of his family shall be exempt from payment of all federal, republican, state, provincial, regional, municipal or local dues and taxes and similar charges of any kind.

2. The exemption provided by paragraph 1 of this Article shall not apply with respect to:

(a) indirect taxes of a kind normally included in the prices of goods and services;

(b) dues and taxes imposed with respect to private immovable property located in the territory of the receiving State;

(c) estate and inheritance taxes and taxes on the transfer of property rights imposed by the receiving State, except as provided in paragraph 3 of this Article;

(d) dues and taxes on private income derived in the receiving State;

(e) dues and other charges for specific services rendered;

(f) dues and taxes on transactions or on documents relating to transactions, including fees of any kind collected by reason of such transactions, unless exemptions are provided in Article 18 of this Convention.

3. If a member of a consulate or a member of his family dies, no estate, succession, or inheritance tax or any other tax or charge on the transfer of movable property at death, shall be imposed by the receiving State with respect to that property, provided that the presence of the property was due solely to the presence of the deceased in his capacity as a member of a consulate or as a member of the family of a member of a consulate.

4. The receiving State shall permit the export of the movable property of a deceased member of a consulate or member of the family of a member of consulate, except that which was acquired in the receiving State the export of which was prohibited at the time of death.

5. Members of a consulate who employ persons whose wages and salaries are not exempt from the payment of dues and taxes in the receiving State shall observe the requirements under the law of the receiving State relating to an employer's obligation for the collection of dues and taxes.

ARTICLE 20.—EXEMPTION FROM CUSTOMS DUTIES AND INSPECTION

1. All articles, including motor vehicles, imported or exported for the official use of the consulate shall, in conformity with the law of the receiving State, be exempt from customs duties and other dues and taxes imposed on importation or exportation or in connection therewith, except for the costs of storage, cartage and services.

2. Consular officers and members of their families shall be exempt from customs duties and other dues and taxes on the importation or exportation of all articles intended for their personal use, including motor vehicles and articles for the equipment of their households, except for the costs of storage, cartage and services.

3. Consular employees and members of their families shall enjoy the privileges and exemptions specified in paragraph 2 of this Article at time of first installation.

4. Articles designed for personal use shall not exceed the quantities required for direct use by the person accorded an exemption by this Article.

5. Personal baggage of consular officers and members of their families shall be exempt from customs inspection. It may be inspected only in cases where there is serious reason to believe that it contains articles other than mentioned in paragraph 2 of this Article, or articles the importation or exportation of which is prohibited by the laws of the receiving State or articles which are subject to the regulations on quarantine. Such inspection must be under-

taken in the presence of the consular officer concerned or member of his family or a person who has been designated to represent him.

ARTICLE 21.—EXEMPTION FROM REQUISITION

Consular premises, as well as the official means of transport of the consulate, are not liable to any form of requisition. If for the needs of the national defense or other public purposes expropriation of consular premises or residences becomes necessary, all possible measures must be taken by the receiving State to avoid interference with the performance of consular functions and promptly to pay appropriate and effective compensation to the sending State.

ARTICLE 22.—FREEDOM OF MOVEMENT

Subject to its laws and regulations relating to zones the entry into which is prohibited or regulated for reasons of national security, the receiving State shall, on the basis of reciprocity, ensure freedom of travel and movement in its territory for all members of a consulate and members of their families.

ARTICLE 23.—EXCLUSION FROM THE ENJOYMENT OF RIGHTS, FACILITIES, PRIVILEGES AND IMMUNITIES

Members of a consulate and members of their families who are either nationals or permanent residents of the receiving State shall not enjoy the rights, facilities, privileges and immunities provided by this Convention, except immunity from the obligation to give evidence in matters connected with the discharge of official duties as provided in paragraph 2 of Article 14 of this Convention.

PART IV.—CONSULAR FUNCTIONS

ARTICLE 24.—FUNCTIONS OF CONSULAR OFFICERS

A consular officer shall be entitled to:

(a) protect the rights and interests of the sending State and of its nationals and juridical persons;

(b) render assistance and support to nationals and juridical persons of the sending State;

(c) contribute to the development of economic, commercial, cultural, scientific and tourist relations between the sending State and the receiving State;

(d) contribute in other ways to the development of friendly relations between the sending State and the receiving State;

(e) ascertain by all lawful means conditions and developments in the political, commercial, economic, cultural and scientific life of the receiving State, and report thereon to the sending State.

ARTICLE 25.—EXECUTION OF CONSULAR FUNCTIONS

1. In accordance with his authorization from the sending State, a consular officer shall be entitled to carry out the functions described in this Convention, as well as other consular functions entrusted to him by the sending State which are not prohibited by

the law of the receiving State or to which the receiving State does not object.

2. A consular officer shall be entitled to execute his functions only within the limits of the consular district to which he is assigned. A consular officer may execute his functions outside the limits of the consular district only with the advance consent of the receiving State given separately in each instance.

3. In executing his functions, a consular officer may approach orally or in writing:

(a) the competent local authorities in his consular district;

(b) the competent central authorities of the receiving State if and to the extent allowed by the law and customs of the receiving State.

4. With the approval of the receiving State the sending State may perform consular functions in the receiving State on behalf of a third State.

5. A consulate may levy in the territory of the receiving State consular fees authorized under the law of the sending State for consular acts. Any such sums levied shall be exempt from all dues and taxes in the receiving State.

ARTICLE 26.—REPRESENTATION BEFORE THE AUTHORITIES OF THE RECEIVING STATE

1. A consular officer shall be entitled, in accordance with the law of the receiving State, to take appropriate measures for the protection of the rights and interests of nationals of the sending State, including juridical persons, before the courts and other authorities of the receiving State, where, because of absence or any other reason, these nationals are not in a position to undertake timely defense of their rights and interests.

2. The measures referred to in paragraph 1 of this Article shall cease as soon as the national appoints his own representative or himself assumes the defense of his rights and interests.

3. Nothing in this Article, however, shall be construed to authorize a consular officer to act as an attorney-at-law.

ARTICLE 27.—FUNCTIONS RELATING TO TRAVEL DOCUMENTS

A consular officer shall be entitled to:

(a) issue to nationals of the sending State passports or other similar travel documents, extend the validity of the same, cancel them, withdraw them, as well as make other amendments in them;

(b) issue visas or other appropriate documents to persons wishing to travel to or through the sending State.

ARTICLE 28.—FUNCTIONS RELATING TO CITIZENSHIP AND CIVIL STATUS

1. A consular officer shall be entitled to:

(a) register nationals of the sending State;

(b) accept applications and issue or deliver documents on matters of citizenship;

(c) accept any application or declaration relating to vital statistics from nationals of the sending State;

(d) register births and deaths of nationals of the sending State, issue certificates and receive communications and documents relating to the same.

2. The provisions of subparagraphs (c) and (d) of paragraph 1 of this Article do not exempt the persons concerned from obligations under the law of the receiving State respecting these matters.

ARTICLE 29.—NOTARIAL FUNCTIONS

A consular officer shall be entitled:

(a) to receive, draw up and certify statements and documents and perform other notarial functions upon the application of a national of the sending State when such statement or document is intended for use outside the receiving State, and also for any person when such statement or document is intended for use in the sending State;

(b) in connection with the acts specified in paragraph (a) of this Article, to administer an oath or take an affirmation, if required under the law of the sending State;

(c) to certify contracts between nationals of the sending State as well as other documents pertaining to unilateral acts of nationals of the sending State, provided these do not establish, transfer or abolish titles to immovable property located in the receiving State;

(d) to certify copies and photocopies of documents of any kind, and extracts of documents;

(e) to authenticate documents drawn up or issued by the competent authorities of the receiving State and that are intended for use in the sending State;

(f) to certify translations of documents issued by the authorities of the sending State or of the receiving State;

(g) at the request of the competent authorities of the sending State, to take testimony of persons who live in his consular district, regardless of their nationality and without the necessity of making request to the competent authorities of the receiving State, provided that such persons appear voluntarily before the consular officer.

ARTICLE 30.—SERVICE OF JUDICIAL AND OTHER DOCUMENTS

A consular officer shall be entitled to serve judicial and other documents on persons in the receiving State in accordance with existing international agreements which are in force between the sending State and the receiving State or, in the absence of such agreements, in conformity with the law of the receiving State.

ARTICLE 31.—NOTIFICATION OF THE ESTABLISHMENT OF GUARDIANSHIP OVER PERSONS OR TRUSTEESHIP OVER PROPERTY

1. The competent authorities of the receiving State shall notify the consulate in writing of instances in which it is necessary to establish a guardianship over a national of the sending State who is not of age or is not in a position to perform legal acts, or a trusteeship over property of a national of the sending State when for whatever reason such property cannot be administered by the national of the sending State.

2. A consular officer of the sending State may, on matters mentioned in paragraph 1 of this Article, contact the appropriate authorities of the receiving State, and, in particular, may propose that appropriate persons be appointed to act as guardians over persons or trustees over property in accordance with the law of the receiving State.

ARTICLE 32.—NOTIFICATION OF THE DEATH OF A NATIONAL OF THE SENDING STATE

Whenever the competent authorities of the receiving State learn that a national of the sending State has died in the receiving State, they shall immediately notify the appropriate consular officer of the sending State and, upon his request, send him a copy of the death certificate or other documentation confirming the death.

ARTICLE 33.—NOTIFICATION REGARDING ESTATES

1. Whenever the competent local authorities of the receiving State learn of the opening of an estate of a deceased national of the sending State in the receiving State who has in the receiving State no known heir or testamentary executor, they shall without delay notify a consular officer of the sending State.

2. Whenever the competent local authorities of the receiving State learn of the opening of an estate of a person, regardless of nationality, who has left in the receiving State an estate in which a national of the sending State residing outside the receiving State may have an interest under the will of the decedent or otherwise in accordance with the law of the receiving State, they shall as promptly as possible so inform a consular officer of the sending State.

ARTICLE 34.—FUNCTIONS RELATING TO ESTATES

1. A consular officer shall be entitled in accordance with the laws of the receiving State, to:

(a) take appropriate measures to protect and conserve the estate of a deceased national of the sending State located in the receiving State. In this connection he may approach the competent authorities of the receiving State with a view towards protecting the interests of a sending State national, not a permanent resident of the receiving State, unless or until such national is otherwise represented. He may also request the competent authorities of the receiving State to permit him to be present at the inventorying and sealing and, in general, to take an interest in the proceedings;

(b) safeguard the interests of a national of the sending State, who has, or claims to have, a right to an estate in the receiving State of a deceased person, irrespective of the deceased's nationality, and if that interested national is not in the receiving State, or is a minor, as long as the person does not have a duly appointed representative.

2. A consular officer of the sending State shall be entitled to receive for transmission to a national of the sending State who is not a permanent resident of the receiving State any sum of money or other property to which such national is entitled as a consequence

of the death of another person, including shares in an estate, payments based on employment, pension and social benefits systems in general, and proceeds of insurance policies unless the court, agency, or person making distribution directs that transmission be effected in a different manner. The court, agency, or person making distribution may require that a consular officer comply with conditions with regard to:

(a) presenting a power of attorney or other authorization from such national residing outside the receiving State;

(b) furnishing reasonable evidence of the receipt of such money or other property by such national; and

(c) returning the money or other property in the event he is unable to furnish such evidence.

In exercising the rights provided by this paragraph the consular officer is subject to the jurisdiction of the civil courts of the receiving State in the same manner and to the same extent as described in Article 13(2)(b).

3. No provisions of this Article shall authorize a consular officer to act as an attorney-at-law.

ARTICLE 35.—PROVISIONAL CUSTODY OF MONEY AND EFFECTS OF DECEASED SENDING STATE NATIONALS

If a national of the sending State, not a permanent resident of the receiving State, dies during a temporary stay in or transit through the receiving State the consular officer shall be entitled without delay to take provisional custody of the money, documents, and personal effects that were in such national's possession for transfer to an heir or testamentary executor, provided that the deceased person shall not have left an accompanying next-of-kin or authorized representative in the receiving State and provided that such provisional custody will be relinquished to a duly appointed administrator or other authorized person.

ARTICLE 36.—COMMUNICATION WITH NATIONALS OF THE SENDING STATE

1. A consular officer shall be entitled, in his consular district, to communicate with a national of the sending State, to render him assistance or give him advice and, when necessary, to arrange for an interpreter and to assure him legal assistance. If a national of the sending State desires to visit the consular officer or to converse with him, the receiving State shall in no way restrict the access of such national to the consulate of the sending State or prevent the consular officer from visiting him.

2. In any case in which a national of the sending State is subject to arrest, detention or any other form of limitation of his personal freedom, the competent authorities of the receiving State shall inform the consulate of the sending State immediately and, in any event, not later than three days from the date on which the national was placed under any form of limitation of his personal freedom. Upon his request, a consular officer shall be informed of the reasons for which the national has been arrested, detained, or limited in enjoyment of his personal freedom.

3. The competent authorities of the receiving State shall immediately inform the national of the sending State of the rights accorded to him by this Article to communicate with a consular officer.

4. A consular officer shall be entitled to receive from and send to a national of the sending State who is under arrest, detention, or any form of limitation of his personal freedom letters or other forms of correspondence and, when necessary, to take appropriate measures to ensure him legal assistance and representation and to arrange for an interpreter.

5. A consular officer shall be entitled to visit a national of the sending State who is under any form of arrest, detention or any other form of limitation of his personal freedom, and to converse with him in the language of the sending State or of the receiving State. These visits shall take place as soon as possible, but not later than five days from the date on which the consular officer has submitted a request for a visit.

6. In the case of a trial of a national of the sending State in the receiving State, the competent authorities shall, at the request of a consular officer, inform such officer of the charges against such national. The consular officer shall be permitted to attend all phases of the trial of such national which are open to the public.

7. A consular officer shall be entitled to visit a national of the sending State who, on the basis of a judicial judgment, is in prison or is serving a sentence, and to converse and correspond with him in the language of the sending State or of the receiving State. These visits shall be permitted as soon as possible, but not later than five days from the date on which the consular officer has submitted a request for a visit, and on a recurring basis, but at intervals of not longer than one month.

8. A consular officer shall be entitled to provide to a national of the sending State to whom the provisions of this Article apply parcels containing food, clothes, medicaments, and books, published material and writing materials.

9. The rights contained in this Article shall be exercised in accordance with the law of the receiving State and shall not prejudice the normal procedures of the receiving State, provided that such law shall be applied so as to give full effect to the purposes for which these rights are intended.

10. In accordance with Article 24 (a) and (b) a consular officer of the sending State may request the assistance of the authorities of the receiving State in ascertaining the whereabouts of a national of the sending State, and the authorities of the receiving State shall endeavor to provide all appropriate and available information.

ARTICLE 37.—RENDERING ASSISTANCE TO VESSELS

1. A consular officer shall be entitled to provide any type of assistance to vessels of the sending State which are in the territorial or inland waters, ports or anchorages of the receiving State.

2. A consular officer may board a vessel of the sending State as soon as permission to communicate with the shore is granted. On such occasions, he may be accompanied by members of the consulate.

3. The master and members of the crew may meet and communicate with the consular officer, observing, however, the law of the port and the law relating to crossing the border.

4. The consular officer may address the authorities of the receiving State and request their cooperation in carrying out his functions with regard to a vessel of the sending State and with regard to the master of the vessel, members of the crew, passengers and cargo.

ARTICLE 38.—RENDERING ASSISTANCE TO MASTER AND CREW

1. Without prejudice to the rights of the competent authorities of the receiving State, insofar as these rights apply to any of the following provisions, the consular officer shall be entitled to:

(a) investigate any incident occurring aboard a vessel of the sending State and question the master of the vessel and any member of the crew with reference to such incident, to the extent permitted by the law of the sending State;

(b) inspect the vessel's papers, receive information in connection with the voyage and destination of the vessel and also render assistance in connection with the entry, stay and departure of a vessel of the sending State;

(c) participate in the settlement of disputes between the master of a vessel of the sending State and members of the crew, including disputes concerning wages and employment contracts, to the extent permitted by the law of the sending State;

(d) take steps connected with the signing on and discharge of a master of a vessel of the sending State and members of the crew, if such action is permitted under the law of the sending State;

(e) take steps for hospitalization or repatriation of the master of a vessel of the sending State or member of the crew;

(f) receive, draw up or certify all declarations or other documents provided for by the law of the sending State in regard to a vessel of the sending State or its cargo;

(g) undertake other steps to apply the law of the sending State concerning merchant shipping.

2. The consular officer may, if permitted by the law of the receiving State, appear together with the master of a vessel of the sending State or a member of the crew before the courts or other authorities of the receiving State in order to render them any assistance in actions before such courts and authorities.

ARTICLE 39.—PROTECTION OF INTERESTS IN CASE OF INVESTIGATIONS

1. When a court or other competent authority of the receiving State intends to take compulsory actions or to start an official investigation aboard a vessel of the sending State which is in the inland or territorial waters, ports or anchorages of the receiving State, that court or other competent authority must notify the appropriate consular officer. If, because of the urgency of the matter, it has not been possible to inform the consular officer before initiation of such actions, and the consular officer or his representative has not been present when the actions were carried out, the court

or other competent authority of the receiving State shall promptly provide him with a full account of the actions taken.

2. Without prejudice to the provisions of Article 36, a consular officer of the sending State shall be notified immediately in cases of which it is necessary for a competent authority of the port area to question the master of a vessel of the sending State or a member of the crew on shore with regard to incidents other than those referred to in paragraph 1 of this Article.

3. Except at the request of the master of a vessel of the sending State or a consular officer, the judicial or other competent authorities of the receiving State shall not interfere in the internal affairs of the vessel on questions of relations between the members of the crew, labor relations, discipline and other activities of an internal character, when the peace and safety of the receiving State are not violated.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply to ordinary customs, passport and sanitary controls, or, in accordance with treaties in force between the two States, to the saving of human life at sea, prevention of pollution of the sea, or to other measures undertaken at the request of, or with the consent of, the master of the vessel.

ARTICLE 40.—ASSISTANCE TO DAMAGED VESSELS

1. If a vessel of the sending State is wrecked, grounded, or suffers any other damage in the inland or territorial waters, ports or anchorages of the receiving State, the competent authorities of the receiving State shall inform the consulate immediately and inform it of the measures taken for saving the passengers, the vessel, its crew and cargo.

2. The consular officer may give any assistance to a vessel of the sending State, the members of the crew and the passengers, as well as take measures for safeguarding the cargo and repairing the vessel. The competent authorities of the receiving State shall extend all necessary assistance to the consular officer in taking such measures. He may also ask the authorities of the receiving State to undertake such measures.

3. If the owner of the vessel, the master of the vessel or other authorized person is not in a position to undertake the necessary measures for safeguarding the vessel and its cargo, the consular officer may, if permitted under the law of the sending State, undertake on behalf of the owner, those measures which the owner himself would undertake in such a case. The provisions of this paragraph shall also apply to every object belonging to a national of the sending State and representing a part of the cargo of the vessel, whether of the sending State or of a third State, which has been found on or near the shore, or has been brought to a port of the receiving State.

4. A vessel which has suffered damage and its cargo and provisions shall not be subject to customs duties in the territory of the receiving State unless delivered for use in that State.

ARTICLE 41.—FUNCTIONS WITH REGARD TO AIRCRAFT

The provisions of Articles 37 to 40 inclusive of this Convention shall also apply to civil aircraft to the extent they are applicable and on the condition that such application is not contrary to the provisions of any bilateral or multilateral agreement in force between the two States.

ARTICLE 42.—OBSERVING THE LAW OF THE RECEIVING STATE

1. All persons enjoying privileges and immunities under this Convention are obliged, without prejudice to their privileges and immunities, to observe the law and customs of the receiving State, including traffic regulations. Members of a consulate shall comply with any requirement imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

2. Consular officers and consular employees who are nationals of the sending State may not carry on any professional or commercial activity for personal profit in the receiving State other than their official duties, or interfere in the internal affairs of the receiving State.

ARTICLE 43.—PERFORMANCE OF CONSULAR FUNCTIONS BY A DIPLOMATIC MISSION

1. The provisions of this Convention relating to consular functions, rights, facilities, privileges and immunities shall also apply when a diplomatic mission performs consular functions.

2. The names of the members of the diplomatic mission entrusted with the performance of consular functions shall be communicated to the receiving State.

3. The members of the diplomatic mission referred to in paragraph 2 of this Article shall continue to enjoy the privileges and immunities granted them by virtue of their diplomatic status.

PART V

ARTICLE 44.—ENTRY INTO FORCE AND RENUNCIATION

1. The present Convention shall be subject to ratification and shall enter into force after the expiration of thirty days following the date of the exchange of instruments of ratification which shall take place at Washington, D.C.

2. The present Convention shall remain in force until the expiration of six months from the date on which one of the Contracting Parties gives to the other Contracting Party written notification of its intention to terminate the Convention.

3. With the entry into force of this Convention, the Agreement between the Government of the United States of America and the Kingdom of Yugoslavia on taking testimony, concluded by exchange of notes in 1938 shall cease to be in force.

IN WITNESS WHEREOF, the respective plenipotentiaries of the Contracting Parties have signed the present Convention.

Done at Belgrade on this sixth day of June, 1988 in two original copies in the English and Serbo-Croatian languages, both texts being equally authentic.

For the United States of America:

JOHN C. WHITEHEAD.

For the Socialist Federal Republic of Yugoslavia:

BUDIMIR LONCAR.

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